

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

PROTECTIVE LIFE INSURANCE CO.,	:	
Plaintiff,	:	CIVIL ACTION
	:	
v.	:	NO. 97-3246
	:	
JULIA C. CONWAY, ANGELA	:	
CONWAY, and ROSIE RUCKER	:	
CONWAY,	:	
Defendants.	:	
	:	

MEMORANDUM

KELLY, R.F.

FEBRUARY 19, 1998

Plaintiff, Protective Life Insurance Company, received conflicting claims to the proceeds of a life insurance policy issued to Anthony Conway. Plaintiff instituted this interpleader action to determine the correct distribution of these funds. The proceeds were deposited with the Registry of the Court and Plaintiff was dismissed from this action. The Defendants, Julia Conway, Angela Conway and Rosie Rucker Conway each claim an interest in the deposited funds.

Counsel for Plaintiff has filed a Petition for Reimbursement of costs and attorneys' fees incurred in prosecuting this action. Only Defendant Rosie Rucker Conway, however, has filed an answer to Plaintiff's Petition for Reimbursement. Plaintiff seeks reimbursement of \$2,216.16 in costs and fees it was required to expend to ensure the resolution of this action. Defendant Rosie Rucker Conway claims this amount is excessive and unwarranted and seeks to limit the award to \$1,000.00.

It is within the discretion of the trial court to award reasonable costs and fees to the plaintiff in an interpleader action. In re OEM Indus. Corp., 135 B.R. 247, 249 (1991). This award is deducted from the interpleaded fund because the Plaintiff involved in the suit "not from any transgression or chicanery on their behalf but because they are the innocent target in a dispute not of their own making." Id. (citing In re Temp-Way, 80 B.R. 699, 705 (E.D. Pa. 1987)). The amount awarded to the Plaintiff should be minimal because "all that is required of the stakeholder is the preparation of the petition, the deposit of the funds into court, service on claimants and the preparation of an order discharging the stakeholder from liability." OEM Indus. Corp., 135 B.R. at 250.

Plaintiff's counsel has submitted a detailed billing summary in support of her request for \$1,913.00 in fees and \$348.16 in costs. Review of these billing records reveals that not all of the fees requested are recoverable in this interpleader action. Plaintiff's requested award, totaling almost 20% of the interpleaded fund, is excessive and will, therefore, be reduced.

Plaintiff's local counsel, Julia Hyun-Lee, Esquire, was retained by Edward A. Hosp, Esquire, presumably Plaintiff's in-house counsel, to represent Plaintiff in the Eastern District of Pennsylvania. Plaintiff's counsel has submitted bills for 3.3 hours spent relaying information to Mr. Hosp. Communication between counsel is understandable, however, that length of time

is unwarranted and will be reduced to 1.5 hours.

Additionally, Plaintiff has submitted bills for 2.8 hours spent researching and writing the complaint. This is excessive because the complaint was originally drafted by Mr. Hosp and merely reviewed and revised by Ms. Hyun-Lee. The amount awarded will therefore be reduced to 1.5 hours.

Plaintiff also indicates that a total of 1.0 hour was spent determining the proper procedure for the deposit of interpleaded funds and relaying this information to Mr. Hosp. This is excessive and will be reduced to .2 hours.

Plaintiff is not permitted to recover fees incurred in pursuit of attorney's fees. OEM Indus. Corp., 135 B.R. at 250. Plaintiff's billing statement indicates that .5 hours were spent discussing "applicable fees" and "rates" with Mr. Hosp. No recovery for these amounts will be permitted.

Several entries are described as "conference with MMS." These bills, totaling .8 hours, cannot, without any explanation, reasonably relate to this interpleader action and will therefore be disallowed.

One entry contains several tasks performed by Ms. Hyun-Lee, making it impossible to determine how much time was spent on each task. Specifically, on July 8, 1996, 1.7 hours was billed as follows:

Review of draft interpleader Complaint; review of relevant rules and sample forms re: equity interpleader; telephone conference with Lexis representative re: person locator database and how to run seach [sic]; conference with MMS re: same; telephone conference with Mr. Hosp to follow up on correspondence of 7/3/96

Having previously reduced the time allowed for review of the complaint, research, and communication with Mr. Hosp, and further, having disallowed an award for time spent in conference with MMS, this entry will be reduced to .3 hours. Eighteen minutes is sufficient time to learn how to run a search in the LEXIS database.

For the foregoing reasons, Plaintiff's Petition for reimbursement of fees and costs will be reduced to the amount of \$1,469.16. I will enter an appropriate Order.

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	:	
JULIA C. CONWAY, ANGELA	:	
CONWAY, and ROSIE RUCKER	:	
CONWAY	:	
Defendants.	:	
_____	:	

ORDER

AND NOW, this 19TH day of February, 1998, upon consideration of Plaintiff's Petition for Reimbursement of Fees and Costs, and all responses thereto, it is hereby ORDERED that said Petition is GRANTED in part. The Clerk of Court shall disburse the amount of \$1,469.16 to Protective Life Insurance Company from the funds currently on deposit with the Registry of Court.

BY THE COURT:

Robert F. Kelly, J.